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Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)	
)	
Implementation of the)	
Telecommunications Act of 1996:)	CC Docket No. 96-193
)	
Reform of Filing Requirements)	
and Carrier Classifications)	
)	

REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY,
PACIFIC BELL AND NEVADA BELL

Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell (the "Petitioners") hereby reply to MCI Telecommunications Corporation's ("MCI") Opposition to Petitioners' Petition for Reconsideration (the "Petition") of the Report and Order¹ in the above-captioned proceeding.

MCI, the only party who has opposed the Petition, contends that the Commission has the authority to continue requiring formal amendment filings relating to cost allocation changes more often than once a year despite Section 402(b)(2)(B)'s mandate that "[t]he Commission permit any common carrier . . . to file cost allocation manuals . . . annually . . ."² MCI contends that continuing such frequent "formal amendment filings" is consistent with Section 402(b)(2)(B)

¹ FCC 97-145, released May 20, 1997

² MCI Opposition at 2.

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because

Nothing in Section 402(b)(2)(B) prevents the Commission from exercising its authority to require incumbent LECs to submit changes to their cost allocation procedures for Commission approval prior to implementation.³

Under MCI's line of reasoning, the Commission could ignore Section 402(b)(2)(B) altogether or it could retain the formal CAM filings so long as it can find a purpose for doing so or otherwise rationalize the retention of frequent filings.

The mandates of the 1996 Act should not be so easily circumvented. Neither should semantic distinctions between "CAM filings" and "notice of CAM changes" be used to evade Section 402(b)(2)(B)'s requirement, as MCI suggests.⁴ If Congress requires "regulatory relief"⁵ from the burden of CAM filings more often than once per year, that is what the Commission should implement. Petitioners have explained how the Commission could eliminate all CAM filings other than the annual update consistent not only with the specific mandate of Section 402(b)(2)(B) but also other related provisions of the 1996 Act. In contrast, MCI does not appear to believe that the Commission has any obligation whatsoever to find a way to implement what Congress required in Section 402(b)(2)(B).

Eliminating only the quarterly filing while continuing to require periodic updates throughout the year does not afford any of the "regulatory relief" from frequent filings that

³ Id.

⁴ Id. At 2.

⁵ Joint Explanatory Statement of the Committee of Conference, Report No. 104-458, 104th Cong., 2d Sess. at 77, 185-86 (subsection entitled "Biennial Review of Regulations; Regulatory Relief").

Congress intended.

Having failed to provide a way to reconcile the Commission's action with Section 402(b)(2)(B), MCI contends that Section 402(b)(2)(B) should be ignored in part for the sake of achieving broader goals of the 1996 Act, such as ensuring that incumbent LECs do not use their telephone exchange and exchange access operations to subsidize nonregulated activities.⁶ Petitioners have explained in this proceeding how the Commission could continue to accomplish the objectives of the accounting safeguards without having to ignore the deregulatory requirements in Section 402(b)(2)(B) at all.⁷ In contrast, MCI appears to believe that the Commission can continue to require the highest level of regulation, even if there is a more narrowly tailored, less restrictive method of accomplishing the same accounting safeguard objectives.

Repeatedly in recent proceedings, the Commission has pointed out the obvious: "price cap regulation of the BOCs' access services reduces the BOCs' incentive to allocate improperly [their] costs."⁸ The incentive is reduced because price cap LECs have little or nothing to gain by

⁶ MCI Opposition at 3.

⁷ Petition at 6; SWBT Comments at 5-6; SWBT Reply Comments at 3.

⁸ Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket Nos. 96-149 & 96-61, Order, FCC 97-142, released April 18, 1997, ¶106 & n. 224; Price Cap Performance Review for Local Exchange Carriers: Access Charge Reform, CC Docket Nos. 94-1 & 96-262, Fourth Report and Order and Second Report and Order, FCC 97-159, ¶¶14, 148 & 150-152 (1997) ("[E]liminating the sharing requirement will remove the incentives that incumbent LECs now have to misallocate costs..." "The removal of sharing also removes a major vestige of rate-of-return regulation that created incentives to shift costs between services to evade sharing."); Implementation of Non-Accounting Safeguards of

misallocating costs, but have substantial risks of loss if they violate the rules and are caught. For these and other reasons,⁹ it is clear that frequent detailed CAM filings are no longer essential to the operation of the accounting safeguards as they once were. MCI's reliance on a decade old requirement for a higher level of scrutiny in the form of frequent CAM filings whenever cost pools change is misplaced in the new environment and cannot override the specific mandate of Section 402(b)(2)(B), especially when there are alternatives for accomplishing the same results, albeit on an annual schedule. Aside from conclusory statements regarding the importance of the accounting safeguards,¹⁰ MCI does not explain why it believes frequent CAM filings are still essential, nor why other less burdensome requirements are not sufficient to accomplish the same results.

For the foregoing reasons, MCI's objections to the Petition should be dismissed and the Commission should grant the relief sought in the Petition by permitting LECs to combine all of their CAM changes in a single, annual filing on or before the last day of each year, as required by Section 402(b)(2)(B).

Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, 11 FCC Rcd 21905 ¶¶97 & 181 n.224 (1996); Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, 11 FCC Rcd 18877 ¶136 (1996); See also Price Cap Performance Review for AT&T, CC Docket No. 92-134, 8 FCC Rcd 6968 ¶3 (1993) ("[T]he carrier has little incentive to misallocate costs among services, because its prices are not based upon cost allocations.")

⁹ For example, competition in regulated product markets also reduces the incentive and ability to engage in cross-subsidy.

¹⁰ MCI Opposition at 3.

Respectfully Submitted,

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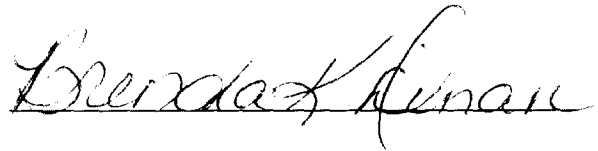
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CERTIFICATE OF SERVICE

I, Brenda K. Dinan, hereby certify that the Reply Comments of Southwestern Bell Telephone Company Pacific Bell and Nevada Bell, on CC Docket No. 96-193, has been served October 8, 1997, to the Parties of Record.

A handwritten signature in cursive script that reads "Brenda K. Dinan". The signature is written in dark ink and is positioned above the printed name.

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